

1-29-2016

# State v. Bingham Appellant's Reply Brief Dckt. 43360

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 43360
Plaintiff-Respondent,	)	
	)	MINIDOKA COUNTY NO. CR 2015-234
v.	)	
	)	
JADEAN BINGHAM,	)	APPELLANT'S REPLY BRIEF
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Jadean Bingham appeals from her judgment of conviction for one count of burglary and one count of possession of a controlled substance, methamphetamine. Ms. Bingham pleaded guilty and the district court imposed concurrent unified sentences of seven years, with two years fixed, and the court retained jurisdiction. Ms. Bingham now appeals, and she asserts that the district court abused its discretion by retaining jurisdiction rather than placing her on probation. This Reply Brief addresses the State's assertion that this Court should consider Ms. Bingham's performance on her rider in determining whether the district court abused its discretion.

## Statement of the Facts & Course of Proceedings

The facts and proceedings are set forth in the Appellant's Brief and are incorporated herein by reference.

## ISSUE

Did the district court abuse its discretion when it retained jurisdiction rather than placing Ms. Bingham on probation?

## ARGUMENT

### The District Court Abused Its Discretion When It Retained Jurisdiction Rather Than Placing Ms. Bingham On Probation

In this case, the State contends that "although not before the district court at sentencing," Ms. Bingham's performance on her rider supports the district court's decision. (Respondent's Brief, p.4.) This Court should reject this argument and not considering this information because, at the State acknowledges, this information was not before the district court at sentencing. It is axiomatic that this Court's review of a sentencing determination is limited to information that was before the Court at sentencing. Further, Ms. Bingham never separately appealed from her rider and therefore any issues with regard to her rider are not properly before this Court.

In this case, Ms. Bingham admitted that she had made mistakes and that her poor choices were made while using methamphetamine. She acknowledged that she had a substance abuse problem and wanted to deal with it. She had been going to Sober Celebrate Recovery and classes at Mountain View Christian Center. She acknowledged her mental health issues and believed that a probation officer could help

keep her on track. Considering this information, Ms. Bingham asserts that the district court abused its discretion by retaining jurisdiction rather than placing her on probation.

### CONCLUSION

Mr. Bingham respectfully requests that this Court reverse the decision of the district court to retain jurisdiction. Alternatively, she requests that her case be remanded to the district court for a new sentencing hearing.

DATED this 29<sup>th</sup> day of January, 2016.

\_\_\_\_\_/s/\_\_\_\_\_  
JUSTIN M. CURTIS  
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 29<sup>th</sup> day of January, 2016, I served a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

JADEAN BINGHAM  
INMATE #64272  
PWCC  
1451 FORE ROAD  
POCATELLO ID 83205

MICHAEL R CRABTREE  
DISTRICT COURT JUDGE  
E-MAILED BRIEF

DENNIS R BYINGTON  
MINI-CASSIA PUBLIC DEFENDER OFFICE  
E-MAILED BRIEF

KENNETH K JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
E-MAILED BRIEF

\_\_\_\_\_/s/\_\_\_\_\_  
EVAN A. SMITH  
Administrative Assistant

JMC/eas